

releasably connects the needle with the housing, such that upon pushing forward upon the rearward end of the plunger, the breakable connection is broken thereby releasing the needle.

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C2 72. (New) The device of claim 69 wherein the cavity in the plunger is configured to receive the biasing element and the needle, such that a portion of the biasing element enters the cavity when the needle is retracted.

73. (New) The device of claim 69 wherein the needle assembly comprises a block connected to the needle for releasably retaining the needle against the bias of the biasing element, wherein the block is displaced into the cavity in the plunger when the needle is retracted.

REMARKS

In the Official Action dated September 11, 2002, the Examiner rejected the pending claims under §112, §102, §103 and under the judicially created doctrine of obviousness-type double-patenting. Applicants request that the Examiner reconsider the rejection of claims 44-68 and favorably consider newly presented claims 69-73 in light of the following discussion.

The claims have been amended to eliminate the antecedent basis issues raised by the Examiner. Although Applicants believe that the claims were clear and definite as required by §112, the claims have been amended to eliminate any potential concerns that the Examiner may have under §112. Accordingly, Applicants request that the Examiner reconsider the rejection of the claims under §112.

Regarding the rejection of the claims under §102 and §103 in light of Villen Pascual 5,049,133, Applicants request that the Examiner reconsider the rejection for two reasons. First, Villen Pascual does not teach or suggest the

features of the pending claims, and second, Villen Pascual is not prior art against the pending claims.

For instance, claim 44 recites a hollow barrel having a forward end and a first connector, and a needle assembly having a needle, a biasing element and a second connector cooperable with the first connector to attach the needle assembly to the barrel. In contrast, the device in Villen Pascual does not have first and second connectors for attaching a needle assembly to the barrel. Accordingly, Villen Pascual does not teach or suggest the features of the pending claims. Therefore, Applicants request that the Examiner reconsider the rejection of the claims over Villen Pascual, alone or in combination with the other references of record.

Furthermore, Villen Pascual is not prior art against the present application. The filing date for Villen Pascual is in 1990, whereas this application has a priority date in 1989. Therefore, since Applicants' effective filing date is earlier than Villen Pascual earliest effective filing date, Villen Pascual is not prior art against the present claims. Therefore, Applicants request that the Examiner reconsider the rejection of the claims over Villen Pascual, alone or in combination with the other references of record.

Regarding the double-patenting rejection, Applicants traverse the rejection. A double-patenting rejection is based upon a similarity in the scope of one or more claims in the pending application and one or more claims in the issued patent. However, the Examiner has not identified which claims in which patents are similar to the pending claims. And the double-patenting rejection recites four patents. Therefore, to respond to this rejection, Applicants would need to guess which claims in the patents are similar to which pending claims, and then guess at the basis for the rejection. This guesswork improperly shifts the burden to Applicants and would cause an unreasonable amount of unnecessary work to try to figure out the basis of the Examiner's rejection. Accordingly, if the Examiner continues the obviousness-type double-patenting rejection, Applicants request that

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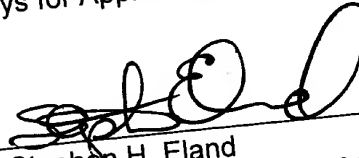
the Examiner identify which claims from which patent form the basis of the rejection.

In light of the foregoing, Applicant believes that this application is in form for allowance. The Examiner is encouraged to contact Applicant's undersigned attorney if the Examiner believes that issues remain regarding the allowability of this application.

Respectfully submitted,

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By



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CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this Response and accompanying papers are being deposited on **March 11, 2003** with the United States Postal Service as first-class mail in an envelope properly addressed to COMMISSIONER OF PATENTS AND TRADEMARKS, Washington, DC 20231


March 11, 2003
Date of Certificate


Stephen H. Eland

Petition for Extension Under 37 CFR §1.136(a)

Applicant's undersigned Attorney hereby petitions for an extension of time of **THREE** months beyond the time period set in the last office communication. The proper fee is enclosed as identified in the enclosed Fee Transmittal form.

March 11, 2003
Date of Certificate


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